IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8450 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MOHANLAL SHAMJIBHAI BABARIA - Petitioner(s)
Versus
STATE OF GUJARAT & 3 - Respondent(s)

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Appearance :
MR ANSHIN H DESAI for Petitioner(s) : 1,
MR SIRAJ GORI AGP for Respondent(s) : 1,
RULE NOT RECD BACK for Respondent(s) : 2 - 4.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 21/07/2006

ORAL JUDGMENT

1. The petitioner is a retired employee who has sought interest on delayed pensionary benefits as well as claimed temporary increase in salary which was deducted from his pensionary benefits.

2. It is not in dispute that the petitioner has been paid gratuity and pension. The petitioner retired from service on 30th June, 2003. His gratuity and pension were not immediately released. However, ultimately, he was paid gratuity on 17th March, 2004 and he was also paid arrears of pension on the same date. The petitioner, therefore, claims interest on the delayed payments. It is not in dispute that on the gratuity the petitioner has been paid interest by the respondents to the extent of delay.

3. The respondents have filed replies, however no justifiable reasons have been stated for delay in releasing the pensionary benefits. The petitioner in any case was not responsible for delay in finalisation of his pension claim. In that view of the matter the petitioner should also receive simple interest at 9% p.a. to the extent of delay in releasing his pension.

4. The other aspect of the claim of the petitioner is that though similarly situated other employees have been granted the benefit of temporary increase, the petitioner is denied the same. In case of the petitioner the respondents seek to present circular dated 19/11/1997 to suggest that the petitioner earlier being a direct employee cannot receive the said benefit. I find the assertion of the petitioner is that under identical circumstances other employees have been paid such benefits.

5. Simply because other employees have been paid certain benefit, the petitioner cannot claim parity unless and until he can point out the same is due and payable to him. However there is insufficient material on record to permit this issue in the present petition. For the said purpose, therefore, it would be appropriate that the petitioner should make a representation to the respondents in this regard with necessary material, if such a representation is made the same should be disposed of expeditiously.

6. In the result the petition is disposed of by following directions.

1. The respondents shall pay to the petitioner simple interest at rate of 9% p.a. on the arrears of pension to the extent of delay.

2. It will be open for the petitioner to make a representation with respect to claim of temporary increase. If such a representation is made within a period of two weeks from today the same shall be disposed of expeditiously and preferably within a period of two months of its receipt.

6.1 The decision that may be taken if adverse to the petitioner, it will be open for him to take legal recourse available to him.

7. With these directions, the petition is disposed of. Rule is made absolute to the above limited extent.

Direct service is permitted.

(Akil Kureshi, J.)

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